IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6647 OF 2004

P.A. Inamdar & Ors. ...Petitioners.
Vs.
State of Maharashtra & Ors. ...Respondents.

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Mr. T.Subramanium with Mr.Satish C.Kekane for the Petitioners.
Mr. A.A. Kumbhakoni, Special Counsel with Mr.R. M. Patne, AGP for the Respondents.

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CORAM : DALVEER BHANDARI, C.J. &
DR.D.Y.CHANDRACHUD, J.

October 20, 2004.

P.C.:

The Petitioners have impugned in these proceedings, a Government Resolution dated 7th May 2004, issued by the Department of School Education in order to govern the process of admissions to D.Ed. Courses in the State of Maharashtra. The Junior College of Education conducted by the Petitioners is stated to be a privately owned unaided minority educational institution. The State Government has filed affidavits dated 31st August 2004 and 20th September 2004 in response to the petition. The contention of the Petitioners is that the Government Resolution dated 7th May 2004 is contrary to the judgments of the Supreme

Court in **T. M. A. Pai Foundation vs. State of Karnataka**, (2002) 8 SCC 481 and **Islamic Academy of Education Vs. State of Karnataka,**(2003) 6 SCC 697.

2. On behalf of the State, it has been stated by the Learned Counsel that the admission process for the current Academic Year is on the verge of completion since more than 70% admissions have been completed and the remaining would be carried out within a period of one week. Hence, it was urged that interference of this Court at this stage would lead to serious hardship to the students.

3. We had indicated to Learned Counsel that at this stage, it would be appropriate for the parties to agree to a working solution that would while protecting the fundamental rights of the Petitioners under Article 30 of the Constitution, at the same time not lead to irreparable hardship and inconvenience to the general body of students.

4. Before this Court, it has been agreed that for the current Academic Year, the Petitioners would admit students belonging to

their community to the extent of 50% of the sanctioned and approved intake capacity directly on merit by following a transparent and fair procedure. The remaining 50% of the students, it is agreed, would be admitted in accordance with the merit list furnished by the competent authority of the State Government. On its part, the State Government has made a statement that the impugned G.R. dated 7th May 2004 shall be withdrawn and a fresh G.R. would be issued at the earliest and well before the commencement of the next Academic Year.

5. Since the aforesaid working arrangement has been arrived at between the parties, we clarify at their request that the Court has not considered the merit of the rival claims, which are expressly kept open to be urged in appropriate proceedings. We also clarify on the request of the Petitioners that it would be open to the Petitioners to adopt such remedies as are open in law should they be aggrieved by the fresh G.R. that is to be issued by the State Government. Since no other point has been pressed, we accordingly dispose of the petition. There shall be, in the circumstances, no order as to costs.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD, J.